

SERVICE DATE – AUGUST 5, 2013

**SURFACE TRANSPORTATION BOARD**  
WASHINGTON, DC 20423

**ENVIRONMENTAL ASSESSMENT**

**Docket No. AB-290 (Sub-No. 326X)**

**Norfolk Southern Railway Company – Abandonment Exemption – in Henry County, Ind.**

**Docket No. AB-1093X**

**C&NC Railroad Corporation – Discontinuance of Service Exemption –  
in Henry County, Ind.**

**BACKGROUND**

In this proceeding, Norfolk Southern Railway Company (NSR) and C&NC Railroad Corporation (CNUR) filed a joint notice under 49 C.F.R. § 1152 seeking exemption from the requirements of 49 U.S.C. § 10903 in connection with the abandonment of approximately 0.88 miles of non-consecutive rail line segments located in Henry County, Indiana. The rail line segments proposed for abandonment extend from Milepost R 0.000 to Milepost R 0.1205 and from Milepost R 1.1629 to Milepost R 1.92, a total distance of approximately 0.88 miles in the City of New Castle, Indiana (the Lines). The joint notice seeks authority from the Surface Transportation Board (the Board) for NSR to abandon the Lines and for CNUR to discontinue its common carrier obligation over the Lines. A map depicting the Lines in relationship to the area served is appended to this Environmental Assessment (EA). If the notice becomes effective, the railroad will be able to salvage track, ties, and other railroad appurtenances and to dispose of the right-of-way.

**ENVIRONMENTAL REVIEW**

NSR and CNUR submitted an Environmental Report that concludes the quality of the human environment would not be significantly affected as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way. NSR and CNUR served the Environmental Report on a number of appropriate federal, state, and local agencies as required by the Board's environmental rules [49 C.F.R. § 1105.7(b)].<sup>1</sup> The Board's

---

<sup>1</sup> The Environmental and Historic Reports are available for viewing on the Board's website at [www.stb.dot.gov](http://www.stb.dot.gov) by going to "E-Library," selecting "Filings," and then conducting a search for AB-1093X.

Office of Environmental Analysis (OEA) has reviewed and investigated the record in this proceeding.

### ***Diversion of Traffic***

NSR and CUNR state that no local traffic has moved over the Lines for at least two years and that there is no overhead traffic. Accordingly, the proposed abandonment would not adversely impact the development, use and transportation of energy resources or recyclable commodities; transportation of ozone-depleting materials; or result in the diversion of rail traffic to truck traffic that could result in significant impacts to air quality or the local transportation network.

### ***Salvage Activities***

If abandonment authority is granted in this proceeding, NSR states that track structures would be removed from the rail right-of-way. The contours of the existing roadbed would not be altered and drainage systems would be left intact. No rail ballast would be removed.

NSR requested comments from Henry County and the City of New Castle. In its comments, the City of New Castle states that the Lines would be suitable for conversion to a recreational trail under the city's Health Communities of Henry County Master Plan. The city subsequently filed a request for a Notice of Interim Trail Use (NITU) with the Board, which would allow the Lines to be 'railbanked' under the provisions of the National Trails Act (Trails Act).<sup>2</sup>

The U.S. Natural Resource Conservation Service (NRCS) submitted comments stating that the proposed abandonment would not result in the conversion of prime farmland. Accordingly, no mitigation regarding the conservation of agricultural land is recommended.

NSR states, and OEA review has confirmed, that the Lines do not cross and are not immediately adjacent to any waterways. In its review of the best available data, OEA has concluded that no wetlands appear to be located in the vicinity of the Lines.<sup>3</sup>

The U.S. Army Corps of Engineers (the Corps) submitted comments stating that the proposed abandonment would not impact any waterways and would therefore not require a Corps permit under Section 404 of the Clean Water Act.<sup>4</sup>

---

<sup>2</sup> 16 U.S.C. § 1247(d).

<sup>3</sup> U.S. Fish and Wildlife Service (USFWS) National Wetlands Inventory Mapper, <http://www.fws.gov/wetlands/Wetlands-Mapper.html> (last visited August 1, 2013).

<sup>4</sup> 33 U.S.C. § 1344.

NSR requested comments from the U.S. Environmental Protection Agency (USEPA) and the Indian Department of Environmental Management (IDEM) regarding compliance with Section 402 of the Clean Water Act<sup>5</sup> and other applicable local, state, and federal water quality regulations. To date, these agencies have not provided comments. NSR states that the proposed abandonment would not result in any impacts to water quality. Because salvage activities would be limited to the removal of track and ties, and because the Lines do not cross and are not immediately adjacent to any waterways, OEA concurs with NSR's determination that permitting under Section 402 of the Clean Water Act would not be required. OEA is sending a copy of this EA to the IDEM for their comment and review.

NSR states that there are no known hazardous waste sites or sites where hazardous material spills have occurred on or adjacent to the right-of-way. OEA review has confirmed that there are no listed Superfund sites in the vicinity of the Lines.<sup>6</sup> Accordingly, no mitigation regarding hazardous waste sites or hazardous material spills is recommended.

In its review of available geospatial data, OEA has concluded that the proposed abandonment is not located in an area designated as critical habitat.<sup>7</sup> OEA also conducted a search of the United State Fish and Wildlife Service (USFWS) Environmental Conservation Online System in order to identify any federally listed endangered or threatened species that may be present in the vicinity of the Line.<sup>8</sup> The search identified the Indiana bat (*Myotis sodalis*) as the only federally listed endangered species known or believed to occur in Henry County, Indiana. The search did not identify any threatened species known or believed to occur in the county.

Threats to the Indiana bat include disease, habitat loss, pollution, and disturbance by humans. Because NSR does not anticipate any activities that may result in such impacts, OEA believes that the proposed abandonment would not result in any impacts to Indiana bat or any other federally listed threatened or endangered species.

USFWS submitted comments stating that the agency has no objection to the abandonment as proposed. Accordingly, no mitigation regarding the protection of threatened or endangered species is recommended.

NSR requested comments from the National Park Service (NPS) regarding the potential impact of the proposed abandonment on wildlife sanctuaries or refuges, parks, or other protected

---

<sup>5</sup> 33 U.S.C. § 1342.

<sup>6</sup> Environmental Protection Agency, NEPAassist, <http://nepassistentool.epa.gov/nepassist/entry.aspx> (last visited August 1, 2013).

<sup>7</sup> U.S. Fish and Wildlife Service, Critical Habitat Portal, <http://criticalhabitat.fws.gov/crithab> (last visited August 1, 2013).

<sup>8</sup> U.S. Fish and Wildlife Service, Environmental Conservation Online System, <http://ecos.fws.gov/ecos/indexPublic.do> (last visited August 1, 2013).

areas, but has received no response to date. In its review of available geospatial data, OEA has concluded that the Lines are not located in or adjacent to any local or national park; wildlife sanctuary or refuge; or other protected area. Accordingly, no mitigation regarding protected areas is recommended.

The National Geodetic Survey (NGS) has not submitted comments regarding the potential impact of the proposed abandonment on any geodetic survey markers that may be present in the project area. Accordingly, OEA is recommending a condition requiring NSR to consult with NGS prior to beginning salvage activities.

Based on all information available to date, OEA does not believe that the proposed abandonment would cause significant environmental impacts. OEA is providing a copy of this EA to IDEM for that agency's comment and review.

## **HISTORIC REVIEW**

According to NSR, the Lines were originally constructed in 1881 as part of the New Castle and Rushville Railroad (NC&R). NC&R was consolidated with the Fort Wayne, Cincinnati, and Louisville Railway in 1886 and sold to the Lake Erie and Western Railroad (LE&W) in 1890. LE&W merged with the New York, Chicago, and St. Louis Railroad (NKP), popularly known as the "Nickel Plate Road" in 1923. NKP merged with Norfolk and Western Railway Company (N&W) in 1964, which became a subsidiary of the Norfolk Southern Corporation, the holding company of NSR, in 1982. In 1997, NSR leased 22.42 miles of rail line, including the Lines, to CNUR. In 2011, a new lease was executed that excludes the Lines and other portions of the 22.42 miles of rail line that are no longer in operation. There are no structures located on the Lines.

NSR requested comments from the Division of Historic Preservation and Archaeology of the Indian Department of Natural Resources (State Historic Preservation Office or SHPO), but has received no response to date. OEA has therefore has not been able to consider the SHPO's opinion before determining if the Lines may be potentially eligible for listing on the National Register of Historic Places (National Register). Accordingly, we are recommending a condition requiring NSR to retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures and objects within the project right-of-way (the Area of Potential Effect) eligible for listing or listed in the National Register until completion of the Section 106 process. Guidance regarding the Board's historic preservation review process is available on the Board's website at <http://www.stb.dot.gov/stb/environment/preservation.html>.

Pursuant to 36 C.F.R. § 800.2, OEA conducted a search of the National Park Service Native American Consultation Database to identify federally recognized tribes that may have ancestral connections to the project area.<sup>9</sup> The database indicated that the following federally

---

<sup>9</sup> National Park Service, National NAGPRA Program Native American Consultation

recognized tribes may have knowledge regarding properties of traditional religious and cultural significance within the right-of-way of the proposed abandonment:

- Citizen Potawatomi Nation in Oklahoma;
- Delaware Nation in Oklahoma;
- Forest County Potawatomi Community in Wisconsin;
- Hannahville Indian Community in Michigan;
- Miami Tribe of Oklahoma;
- Ottawa Tribe of Oklahoma;
- Peoria Tribe of Indians of Oklahoma;
- Prairie Band of Potawatomi Nation in Kansas; and
- Wyandotte Nation in Oklahoma.

Accordingly, OEA is sending a copy of this EA to those tribes for review and comment.

## **CONDITIONS**

We recommend that the following conditions be imposed on any decision granting abandonment authority:

1. Norfolk Southern Railway Company (NSR) shall consult with the National Geodetic Survey (NGS) prior to beginning salvage activities. If NGS identifies geodetic station markers that may be affected by the proposed abandonment, NSR shall notify NGS at least 90 days prior to beginning salvage activities that will disturb or destroy any geodetic station markers in order to plan for the possible relocation of the geodetic station markers by NGS.
2. Norfolk Southern Railway Company (NSR) shall retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures, and objects within the project right-of-way (the Area of Potential Effect) that are eligible for listing or listed in the National Register of Historic Places until the Section 106 process of the National Historic Preservation Act, 16 U.S.C. § 470f, has been completed. NSR shall report back to the Office of Environmental Analysis (OEA) regarding any consultations with the Division of Historic Preservation and Archaeology of the Indian Department of Natural Resources (State Historic Preservation Office or SHPO), and the public. NSR may not file its consummation notice or initiate any salvage activities related to abandonment (including removal of tracks and ties) until the Section 106 process has been completed and the Board has removed this condition.

## **CONCLUSIONS**

Based on the information provided from all sources to date, OEA concludes that, if the conditions above are imposed, abandonment of the Lines would not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and therefore no change in operations), discontinuance of service without abandonment, and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption would not be affected.

## **PUBLIC USE**

Following abandonment and salvage of the rail line, the right-of-way may be suitable for other public use. A request containing the requisite four-part showing for imposition of a public use condition (49 C.F.R. § 1152.28) must be filed with the Board and served on the railroad within the time specified in the Federal Register notice.

The City of New Castle, Indiana has filed a request for public use pursuant to 49 C.F.R. § 1152.28.

## **TRAILS USE**

Requests for a notice of interim trail use (NITU) are due to the Board, with a copy to the railroad, within 10 days of publication of the notice of exemption in the Federal Register. Nevertheless, the Board will accept late-filed requests as long as it retains jurisdiction to do so in a particular case. This request must comply with the Board's rules for use of rights-of-way as trails (49 C.F.R. § 1152.29).

The City of New Castle, Indiana has submitted a request for a NITU pursuant to 49 C.F.R. § 1152.29.

## **PUBLIC ASSISTANCE**

The Board's Office of Public Assistance, Governmental Affairs, and Compliance responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact this office directly at (202) 245-0238, or mail inquiries to Surface Transportation Board, Office of Public Assistance, Governmental Affairs, and Compliance, Washington, DC 20423.

## **COMMENTS**

If you wish to file comments regarding this Environmental Assessment, send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Joshua Wayland, who prepared this Environmental Assessment. Environmental comments may also be filed electronically on the Board's website, [www.stb.dot.gov](http://www.stb.dot.gov), by clicking on the "E-FILING" link. **Please refer to Docket Nos. AB-290 (Sub-No. 326X) and AB-1093X in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Joshua Wayland, the environmental contact for this case, by phone at (202) 245-0330, fax at (202) 245-0454, or e-mail at [waylandj@stb.dot.gov](mailto:waylandj@stb.dot.gov).

Date made available to the public: August 5, 2013

**Comment due date: August 20, 2013**

By the Board, Victoria Rutson, Director, Office of Environmental Analysis